

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-0877-IWD-E **TCEQ ID:** RN104432273 **CASE NO.:** 33653
RESPONDENT NAME: Lone Star Stone of Texas, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Lone Star Stone, Inc., 1073 Farm-to-Market Road 1713, Hill County

TYPE OF OPERATION: Ready-mix concrete

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8931; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Tokey Birdwell, Site Manager, Lone Star Stone of Texas, Inc., P.O. Box 2125, Whitney, Texas 76692
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 27, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 22, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Three violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with the permitted effluent limits for Total Suspended Solids and Oil and Grease [30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), National Pollutant Discharge Elimination System ("NPDES") General Permit No. TXG110000, Part I. Section C, and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110573, Part III. Section A for Outfall 001A and 002A].</p> <p>2) Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring reports ("DMRs") were submitted late for Outfall 001A for the monitoring periods ending February 28, 2006, March 31, 2006, April 30, 2006, May 31, 2006, and November 30, 2006; and Outfall 002A for the monitoring periods ending January 31, 2006, March 31, 2006, June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006, October 31, 2006, and November 30, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and NPDES General Permit No. TXG110000, Part II. Section D.4.].</p> <p>3) Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Annual Toxicity reports as well as the Annual Metals</p>	<p>Total Assessed: \$10,934</p> <p>Total Deferred: \$2,186 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$8,748</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has:</p> <p>a. Installed a silt fence to achieve compliance with effluent limitations by April 2007;</p> <p>b. On June 25, 2007, submitted the Annual Toxicity report as well as the Annual Metals report for Outfall 001A and 002A for the monitoring period ending August 31, 2006; and</p> <p>c. On June 25, 2007, submitted the DMR's for Outfall 001A for the monitoring periods ending February 28, 2006, March 31, 2006, April 30, 2006, May 31, 2006, and November 30, 2006; and Outfall 002A for the monitoring periods ending January 31, 2006, March 31, 2006, June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006, October 31, 2006, and November 30, 2006.</p>

reports were not received for Outfall 001A and Outfall 002A by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and NPDES General Permit No. TXG110000, Part I. Section F.].		
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Additional ID No(s): TXG110573



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

TCEQ

DATES

Assigned 28-May-2007

PCW 10-Aug-2007

Screening 4-Jun-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Lone Star Stone of Texas, Inc.

Reg. Ent. Ref. No. RN104432273

Facility/Site Region 9-Waco

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33653

Docket No. 2007-0877-IWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 3

Order Type 1660

Enf. Coordinator Deana Holland

EC's Team Enforcement Team 1

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$7,700

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

62% Enhancement

Subtotals 2, 3, & 7 \$4,774

Notes

A 62% enhancement is recommended for having 12 months of self-reported effluent data violations, and one NOV without same or similar violations within the last five years.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

10% Reduction

Subtotal 5 \$770

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent came into compliance by June 25, 2007.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$156
Approx. Cost of Compliance \$3,260

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$11,704

OTHER FACTORS AS JUSTICE MAY REQUIRE

-7%

Adjustment -\$770

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount \$10,934

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$10,934

DEFERRAL

20%

Reduction

Adjustment -\$2,186

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$8,748

Screening Date 4-Jun-2007

Docket No. 2007-0877-IWD-E

PCW

Respondent Lone Star Stone of Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33653

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104432273

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 62% enhancement is recommended for having 12 months of self-reported effluent data violations, and one NOV without same or similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 4-Jun-2007

Docket No. 2007-0877-IWD-E

PCW

Respondent Lone Star Stone of Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33653

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104432273

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a), NPDES General Permit No. TXG110000, Part I. Section C, and TPDES General Permit No. TXG110573, Part III. Section A for Outfall 001A and 002A.

Violation Description

Failed to comply with the permitted effluent limits as documented during a record review conducted on April 27, 2007. See attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6

212 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$6,000

Six quarterly events are recommended for the two outfalls.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$130

Violation Final Penalty Total \$8,520

This violation Final Assessed Penalty (adjusted for limits) \$8,520

Economic Benefit Worksheet

Respondent Lone Star Stone of Texas, Inc.

Case ID No. 33653

Reg. Ent. Reference No. RN104432273

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,800	1-Aug-2006	1-Apr-2007	0.7	\$6	\$124	\$130
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Cost of evaluating the causes of the effluent noncompliances is \$1,000, and \$1,800 is the cost of installing the silt fence. Date required is the beginning of the effluent noncompliances and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.0	\$0	\$0	\$0
Personnel			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.0	\$0	\$0	\$0
Supplies/equipment			0.0	\$0	\$0	\$0
Financial Assurance [2]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,800

TOTAL

\$130

Screening Date 4-Jun-2007

Docket No. 2007-0877-IWD-E

PCW

Respondent Lone Star Stone of Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33653

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104432273

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), NPDES General Permit No. TXG110000, Part II. Section D.4.

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented by TCEQ during a record review conducted on April 27, 2007. Specifically, the discharge monitoring report(s) were submitted late for Outfall 001A for the monitoring periods ending 02/28/2006, 03/31/2006, 04/30/2006, 05/31/2006, and 11/30/2006; and Outfall 002A for the monitoring periods ending 01/31/2006, 03/31/2006, 06/30/2006, 07/31/2006, 08/31/2006, 09/30/2006, 10/31/2006, and 11/30/2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 13

430 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,300

Thirteen single events (one for each report) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,846

This violation Final Assessed Penalty (adjusted for limits) \$1,846

Economic Benefit Worksheet

Respondent Lone Star Stone of Texas, Inc.
Case ID No. 33653
Reg. Ent. Reference No. RN104432273
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$260	20-Feb-2006	25-Jun-2007	1.3	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to submit the Discharge Monitoring Reports. Date required is the date the first report was due and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$260

TOTAL

\$17

Screening Date 4-Jun-2007

Docket No. 2007-0877-IWD-E

PCW

Respondent Lone Star Stone of Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33653

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104432273

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), NPDES General Permit No. TXG110000, Part I. Section F.

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented by TCEQ during a record review conducted on April 27, 2007. Specifically, the Annual Toxicity reports as well as the Annual Metals reports were not received for Outfall 001A and Outfall 002A by September 1, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

9/1/2006	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4

267 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$400

Four single events (one for each report) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$568

This violation Final Assessed Penalty (adjusted for limits) \$568

Economic Benefit Worksheet

Respondent Lone Star Stone of Texas, Inc.

Case ID No. 33653

Reg. Ent. Reference No. RN104432273

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	1-Sep-2006	25-Jun-2007	0.8	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to submit the Annual Toxicity and the Annual Metals Reports. Date required is the date the first report was due and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8

Effluent Violation Table
Lone Star Stone of Texas, Inc.
Docket No. 2007-0877-IWD-E

Permitted Effluent Limits	NPDES General Permit No. TXG110000						TPDES General Permit No. TXG110573
	Monitoring Period End Date						
	01/31/06	02/28/06	04/30/06	08/31/06	09/30/06	10/31/06	12/31/2006
Outfall 001A Total Suspended Solids Daily Maximum 65 mg/l	160	c	c	806	c	115	624
Outfall 001A Oil and Grease Daily Maximum 15 mg/l	c	c	15.2	c	c	35.5	c
Outfall 002A Total Suspended Solids Daily Maximum 65 mg/l	c	79	c	c	207	c	c

mg/l = milligrams per liter

c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN602602070 Lone Star Stone of Texas, Inc. Classification: AVERAGE Rating: 1.80

Regulated Entity: RN104432273 LONE STAR STONE INC Classification: AVERAGE Site Rating: 0.60

ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG110573

Location: 1073 FM ROAD 1713, HILL COUNTY Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: June 03, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 03, 2002 to June 03, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Deana Holland Phone: 239-2504

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 10/08/2004 (370499)
- 2 11/22/2004 (392285)
- 3 12/03/2004 (392286)
- 4 01/14/2005 (392287)
- 5 02/02/2005 (429585)
- 6 03/09/2005 (429586)
- 7 05/05/2005 (429587)
- 8 06/15/2005 (429588)
- 9 07/22/2005 (429589)
- 10 08/02/2005 (449105)
- 11 09/12/2005 (449106)
- 12 10/17/2005 (496315)
- 13 11/09/2005 (496316)
- 14 12/15/2005 (496317)
- 15 01/19/2006 (496318)
- 16 02/22/2006 (496313)
- 17 03/21/2006 (496314)
- 18 05/30/2006 (508286)
- 19 05/30/2006 (508287)
- 20 07/06/2006 (530579)
- 21 07/25/2006 (530580)
- 22 09/18/2006 (553289)
- 23 10/17/2006 (553290)
- 24 10/31/2006 (517789)
- 25 11/22/2006 (553291)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/31/2004	(392285)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2005	(429586)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2005	(429589)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2006	(496313)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2006			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2006			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2006	(553289)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/28/2006	(514352)		
Self Report?	NO		Classificati	Moderate
Citation:	30 TAC Chapter 111, SubChapter B 111.201			
Description:	Failure to adhere to the Outdoor Burning in Texas guidelines.			
Date:	09/30/2006	(553290)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2006			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2006			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2007			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2007			

Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LONE STAR STONE OF TEXAS, INC.
RN104432273**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0877-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lone Star Stone of Texas, Inc. ("Lone Star") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Lone Star appear before the Commission and together stipulate that:

1. Lone Star owns and operates a ready-mix concrete facility at 1073 Farm-to-Market Road 1713 in Hill County, Texas (the "Facility").
2. Lone Star has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Lone Star agree that the Commission has jurisdiction to enter this Agreed Order, and that Lone Star is subject to the Commission's jurisdiction.
4. Lone Star received notice of the violations alleged in Section II ("Allegations") on or about May 27, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Lone Star of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Nine Hundred Thirty-Four Dollars (\$10,934) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Lone Star has paid Eight Thousand Seven Hundred Forty-Eight Dollars (\$8,748) of the administrative penalty and Two Thousand One Hundred Eighty-Six Dollars (\$2,186) is deferred contingent upon Lone Star's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Lone Star fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Lone Star to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Lone Star have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Lone Star has:
 - a. Installed a silt fence to achieve compliance with effluent limitations by April 2007;
 - b. On June 25, 2007, submitted the Annual Toxicity report as well as the Annual Metals report for Outfall 001A and 002A for the monitoring period ending August 31, 2006; and
 - c. On June 25, 2007, submitted the discharge monitoring reports ("DMRs") for Outfall 001A for the monitoring periods ending February 28, 2006, March 31, 2006, April 30, 2006, May 31, 2006, and November 30, 2006; and Outfall 002A for the monitoring periods ending January 31, 2006, March 31, 2006, June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006, October 31, 2006, and November 30, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Lone Star has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Lone Star is alleged to have:

- Failed to comply with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), National Pollutant Discharge Elimination System ("NPDES") General Permit No. TXG110000, Part I. Section C, and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110573, Part III. Section A for Outfall 001A and 002A, as documented during a record review conducted on April 27, 2007, and as shown in the following table:

Effluent Violation Table Lone Star Stone of Texas, Inc. Docket No. 2007-0877-IWD-E							
Permitted Effluent Limits	NPDES General Permit No. TXG110000						TPDES General Permit No. TXG110573
	Monitoring Period End Date						
	01/31/06	02/28/06	04/30/06	08/31/06	09/30/06	10/31/06	12/31/2006
Outfall 001A Total Suspended Solids Daily Maximum 65 mg/l	160	c	c	806	c	115	624
Outfall 001A Oil and Grease Daily Maximum 15 mg/l	c	c	15.2	c	c	35.5	c
Outfall 002A Total Suspended Solids Daily Maximum 65 mg/l	c	79	c	c	207	c	c

mg/l = milligrams per liter

c = compliant

- Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and NPDES General Permit No. TXG110000, Part II. Section D.4. Specifically, the DMRs were submitted late for Outfall 001A for the monitoring periods ending February 28, 2006, March 31, 2006, April 30, 2006, May 31, 2006, and November 30, 2006; and Outfall 002A for the monitoring periods ending January 31, 2006, March 31, 2006, June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006, October 31, 2006, and November 30, 2006.

3. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and NPDES General Permit No. TXG110000, Part I. Section F. Specifically, the Annual Toxicity reports as well as the Annual Metals reports were not received for Outfall 001A and Outfall 002A by September 1, 2006.

III. DENIALS

Lone Star generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Lone Star pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Lone Star's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lone Star Stone of Texas, Inc., Docket No. 2007-0877-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Lone Star. Lone Star is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Lone Star in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Lone Star, or three days after the date on which the Commission mails notice of the Order to Lone Star, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/03/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8-29-07
Date

TDKEY BIRDWELL

Name (Printed or typed)
Authorized Representative of
Lone Star Stone of Texas, Inc.

SITE MGR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

